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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER				
COLLINS, MICHAEL				
ART UNIT		PAPER NUMBER		
3651				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/561,137

Applicant(s)

ANDERSON ET AL.

Examiner

MICHAEL K. COLLINS

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-4 and 17-31 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4 and 7-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Regarding claim 1 the Applicant discloses "A hand-held **dispenser**", "a **dispenser** mounted on the storage area", and "an outlet opening through which the unit products are dispensable from the **dispenser**." Since the Applicant is claiming a dispenser and a limitation containing a dispenser it is not clear which dispenser is being referred to when the applicant references "dispenser." The wording is unclear.
- Claims 2-4 and 7-31 depend from claim 1.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-4 and 7-31 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wolf (USP 6,148,815).

Regarding claim 1, Wolf discloses a hand-held dispenser for dispensing a multiplicity of unit products having:

- a storage area (130) for storing the unit products,
- a dispenser (215) mounted on the storage area,
- an outlet opening (140) through which the unit products are dispensable from the dispenser,
- a dispensing mechanism (220,221) actuable to dispense the unit products through the outlet opening (140), and
- a timing mechanism (400) adapted in use to time the period since last dispensing of a unit product (see column 3 lines 61-62).

Regarding claim 2, Wolf discloses the dispenser of claim 1 in which the timing mechanism (400) is adapted in use to indicate the time since last dispensing.

Regarding claim 3, Wolf discloses the dispenser of claim 1 having a display (see Figure 14) forming part of the timing mechanism on which, in use, the time since last dispensing is graphically indicated thereon.

Regarding claim 4, Wolf discloses the dispenser of claim 1 wherein the timing mechanism has a controller programmed with a predetermined dispensing regime for dispensing of the unit products and the controller controls the timing mechanism so that it provides an alert when dispensing of the unit products is required in accordance with the dispensing regime (see Figure 11).

Regarding claim 7, Wolf discloses the dispenser of claim 1 further having a dispensing indicator (see Figure 11) for indicating the number of unit products left in, or dispensed-from, the dispenser.

Regarding claim 8, Wolf discloses the dispenser of claim 7 wherein the dispensing indicator is integrated with the dispenser such that it is automatically updated in response to the dispensing of the unit products therefrom.

Regarding claim 9, Wolf discloses the dispenser of claim 7 in which the dispensing indicator has a display (see Figure 11) to indicate the number of unit products left or dispensed.

Regarding claim 10, Wolf discloses the dispenser of claim 9, in which the dispensing indicator is adapted to represent the number of unit products left or remaining in graphical form on the display (see Figure 11).

Regarding claim 11, Wolf discloses the dispenser of claim 10, in which the number of unit products is represented with numerical indicia.

Regarding claim 12, Wolf discloses the dispenser of claim 7 in which the display is an electronic display.

Regarding claim 13, Wolf discloses the dispenser of claim 7 wherein the dispensing indicator is an electronic indicator.

Regarding claim 14, Wolf discloses the dispenser of claim 7 in which the dispensing indicator is a dispensing counter.

Regarding claim 15, Wolf discloses the dispenser of claim 1 having the unit products.

Regarding claim 16, Wolf discloses the dispenser of claim 15 wherein the unit products are pharmaceutical products.

Regarding claim 17, Wolf discloses the dispenser of claim 16 wherein the pharmaceutical products are oral dosage forms.

Regarding claim 18, Wolf discloses the dispenser of claim 15 wherein the unit products are pills.

Regarding claim 19, Wolf discloses the dispenser of claim 1 in which the dispensing mechanism is adapted to dispense a predetermined number of unit products per actuation.

Regarding claim 20, Wolf discloses the dispenser of claim 19 wherein the predetermined number is one.

Regarding claim 21, Wolf discloses the dispenser of claim 1 wherein the storage

area is provided in a first dispenser part and the timing mechanism and outlet opening are provided in a second dispenser part attached to the first dispenser part.

Regarding claim 22, Wolf discloses the dispenser of claim 21 wherein the dispensing mechanism is provided in the second dispenser part.

Regarding claim 23, Wolf discloses the dispenser of claim 21 wherein the first and second dispenser parts are releasably attached.

Regarding claim 24, Wolf discloses the dispenser of claim 21 wherein the first dispenser part has an access opening through which the unit products are transferable from the storage area into the second dispenser part and the dispenser has a closure which is selectively connectable with the first and second dispenser parts to respectively close the access opening and the outlet opening (see Figures 1-2).

Regarding claim 25, Wolf discloses the dispenser of claim 24 wherein the closure is a cap.

Regarding claim 26, Wolf discloses the dispenser of claim 24 wherein the closure, on the one hand, and the first and second dispenser parts, on the other hand, have co-operable connecting structures for selectively connecting the closure to the first and second dispenser parts.

Regarding claim 27, Wolf discloses the dispenser of claim 26 wherein the connecting structures on the first and second dispenser parts are the same.

Regarding claim 28, Wolf discloses the dispenser of claim 26 wherein the second dispenser part has a further connecting structure which is co-operable with the connecting structure of the first dispenser part which co-operates with the connecting

structure of the closure to enable connection of the first and second dispenser parts.

Regarding claim 29, Wolf discloses the dispenser of claim 1 claims in which the timing mechanism is operatively coupled to the dispensing mechanism so as to be actuated in response to actuation of the dispensing mechanism.

Regarding claim 30, Wolf discloses the dispenser of claim 1 in which the timing mechanism is operatively coupled to a detector adapted to detect the dispensing of a unit product from the dispenser whereby the timing mechanism is actuated in response to the detector detecting dispensing of a unit product.

Regarding claim 31, Wolf discloses a dispensing module for attachment to a container for a multiplicity of unit products in the form of the second dispenser part of claim 22.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL K. COLLINS whose telephone number is (571)272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.K.C.
3/11/2009

/Gene Crawford/
Supervisory Patent Examiner, Art
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